

Chapter 10

ANIMALS

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- Sec. 10.101. Nuisance.
- Sec. 10.102. Animal and pet establishments; offensive odors and noises.
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- Sec. 10.104. Partition or line fences.
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- Sec. 10.114. Impounding of dogs.
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ARTICLE I. IN GENERAL**Sec. 10.100. State code adopted.**

It is expressly provided and ordained that all of the provisions of Wis. Stats. ch. 172, as amended, are incorporated by reference into this section with the same force and effect as if fully set forth.

(Code 1982, § 6.12(2))

Sec. 10.101. Nuisance.

The keeping or harboring of any animal or fowl that, by frequent or habitual howling, yelping, barking, crowing or making of other noises, shall greatly annoy or disturb a neighborhood or any considerable number of persons within the town which tend to create a disturbance is prohibited.

(Code 1982, § 4.156(1)(a), (j), (k))

Sec. 10.102. Animal and pet establishments; offensive odors and noises.

No owner or operator of any establishment for the care, treatment or boarding of animals in the town shall allow such establishment to be so conducted so as to permit any offensive odor or unusual odor to escape from the premises; nor shall any such owner or operator own, harbor or keep any animal on the premises that habitually barks, howls, yelps or emits other noises to the annoyance of any persons. Any such activities prohibited by this section are declared to be a public nuisance.

(Code 1982, § 6.15(1))

Cross reference—Businesses, ch. 18.

Sec. 10.103. Abandonment of domestic animals.

No person shall transport any domestic animal into the town for the purpose of abandoning the animal, and no person shall abandon any domestic animal within the town.

(Code 1982, § 6.11)

Sec. 10.104. Partition or line fences.

(a) *Maintenance of partition line fences.* The respective occupants of adjoining lands, used and occupied for farming or grazing purposes, and the respective owners of adjoining lands when the lands of one of such owners is used and occupied for farming or grazing purposes, shall keep and maintain partition fences between their own and next adjoining premises in equal shares so long as either party continues to so occupy the property; and such fences shall be kept in good repair throughout the year unless the occupants of the land on both sides otherwise mutually agree.

(b) *Portion of fence required to be maintained by respective owners or occupants.* Unless otherwise agreed, as evidenced by an agreement in writing made by the owners, signed, sealed and witnessed by two witnesses, or by the fence viewers in writing under their hands, which

agreement shall be recorded in the town clerk/treasurer's office, the respective occupants of adjoining lands, used and occupied for farming or grazing purposes, and the respective owners of adjoining lands when the lands of one of such owners is used and occupied for farming and grazing purposes, shall keep and maintain as his portion of the partition or line fence whenever practicable that half lying and being to his right as he faces the partition or line fence when standing on his own property or premises unless otherwise determined by the fence viewers.

(Code 1982, § 13.02(1), (2))

Sec. 10.105. Legal fences.

Legal fences as set out in Wis. Stats. § 90.02, as amended, and none other, are deemed and declared to be the legal and sufficient fences within the meaning of this section.

(Code 1982, § 13.02(3))

ARTICLE II. DOGS AND CATS*

Sec. 10.106. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

At large means to be off the premises of the owner and not under the control of some person, either by leash or otherwise; but a dog or cat within an automobile of its owner or in an automobile of any other person with the consent of the dog's or cat's owner shall be deemed to be upon the owner's premises.

Owner means any person owning, harboring or keeping a dog or cat. The occupant of any premises on which a dog or cat remains or to which it customarily returns daily for a period of ten days is presumed to be harboring or keeping the dog or cat within the meaning of this article.

(Ord. of 9-16-1985, § 1(1))

Cross reference—Definitions and rules of construction generally, § 1.101.

Sec. 10.107. Duty of owner in cases of dog bite.

Every owner or person harboring or keeping a dog who knows that such dog has bitten any person shall immediately report such fact to the designated law enforcement department and the health officer and shall keep such dog confined for not less than 14 days or for such period of time as the health officer shall direct. The owner or keeper of any such dog shall surrender the dog to the health officer or to the designated law enforcement officers of the town upon demand for examination.

(Ord. of 9-16-1985, § 1(6))

***State law reference**—Dogs generally, Wis. Stats. § 174.001 et seq.

Sec. 10.108. Number of dogs and cats limited.

No more than two dogs and/or three cats shall be kept in or upon one residential unit or by one or more persons constituting one residential unit unless the premises is licensed as a kennel.

(Ord. of 9-16-1985, § 1(7))

Sec. 10.109. License required.

No person shall own, harbor or keep any dog more than five months of age without complying with Wis. Stats. §§ 174.05—174.09, relating to the licensing, listing and tagging of dogs.

(Ord. of 9-16-1985, § 1(2))

Sec. 10.110. Restrictions on keeping dogs and cats.

No person within the town shall own, harbor or keep any:

- (1) Dog that habitually pursues any vehicle upon any public street, alley or highway in the town.
- (2) Dog or cat that assaults or attacks any person.
- (3) Dog or cat that is at large within the limits of the town.
- (4) Dog that habitually barks or howls to the annoyance of any person.
- (5) Dog or cat that kills, wounds or worries any domestic animal.
- (6) Dog or cat known by any such person to be infected with rabies or to have been bitten by any animal known to have been infected with rabies.

(Ord. of 9-16-1985, § 1(3))

Sec. 10.111. Animals on property of others.

No person who has the care, custody or control of any dog or cat shall allow or permit the animal to defecate or urinate upon property not owned by such person or without such other property owner's consent or upon any public property.

(Ord. of 11-19-1990, § 8)

Sec. 10.112. Wastes on owner's property.

The accumulation of dog feces or wastes upon private property in the town is declared to be a public nuisance. The owner or occupant of property upon which there exists any accumulation of dog feces or wastes shall remove all such wastes from his premises and dispose of the wastes in a safe and sanitary manner within 24 hours of written notification from a designated law enforcement officer of the town to remove the wastes. Failure to do so shall be a violation of this section and will subject the owner or occupant of the premises to the penalties set forth in section 1.109.

(Ord. of 11-19-1990, § 9)

Sec. 10.113. Required removal of animal excreta.

(a) The owner or person having immediate care, custody or control of any dog shall promptly remove and dispose of, in a sanitary manner, any excreta left or deposited by the animal upon any public or private property.

(b) It is unlawful for any person to permit an animal to be on public property or private property not owned or possessed by such person, unless such person has, in his immediate possession, an appropriate means of removing animal excreta.

(Ord. of 9-17-1994, § 2)

Sec. 10.114. Impounding of dogs.

It shall be the duty of the designated law enforcement officers of the town to impound every dog or cat found or known to be running at large within the town. The designated law enforcement officers of the town shall have the right to pursue a dog or cat upon the premises of the owner or elsewhere. Any person shall have the right to capture and deliver to the designated law enforcement officers of the town any dog or cat found running at large or trespassing upon any grounds, public or private, within the town. Impounded dogs and cats shall be dealt with pursuant to the provisions of section 10.115.

(Ord. of 11-19-1990, § 1)

State law reference—Authority to regulate dogs at large, Wis. Stats. § 60.23(30).

Sec. 10.115. Claiming impounded dog or cat.

Impounded dogs or cats shall be forthwith delivered to the county humane society by the designated law enforcement officer of the town. Any person whose dog or cat has been impounded may obtain the dog's or cat's release from the county humane society by making payment to the humane society for all of the costs, charges and/or expenses that were incurred as a result of the dog's or cat's impoundment. Every person taking a dog or cat from the humane society shall sign a receipt for such dog or cat.

(Ord. of 9-16-1985, § 1)

Chapters 11—13

RESERVED

TOWN OF WESTON, MARATHON COUNTY, WISCONSIN
AN ORDINANCE CREATING ARTICLE III, SECTIONS 10.116-SECTIONS 10.128 OF
THE MUNICIPAL CODE RELATING TO "DANGEROUS ANIMALS" FOR THE
TOWN OF WESTON, MARATHON COUNTY, WISCONSIN

The Town Board of the Town of Weston, Marathon County, Wisconsin, do ordain as follows:

Article III: Sections 10.116-10.128 of the Town of Weston Municipal Code is created to provide as follows:

ARTICLE III. DANGEROUS ANIMALS

Sec. 10.116. Dangerous Animals Prohibitions.

- (a) No person shall own, harbor, keep, or maintain within the Town, any dangerous animal," except as provided in Section 10.119 below.
- (b) No person may bring into or keep within the Town limits, any animal that is determined to be a "prohibited dangerous animal" under this section.
- (c) No person shall offer for sale, sell, give away, breed, buy, or attempt to buy any dangerous animal within the Town except as permitted under this section.
- (d) No person shall own or harbor any animal for the purpose of animal fighting, or train, torment, badger, bait, or use any animal for the purpose of causing or encouraging said animal to attack human beings or domestic animals when not provoked.
- (e) The issuance of a citation under this section need not be predicated on a determination that an animal is a dangerous or prohibited dangerous animal.

Sec. 10.117. Definitions.

Dangerous animal as used in this ordinance means:

- (a) Any animal which approaches or chases any human being or domestic animal in a menacing fashion or apparent attitude of attack, without provocation, on public or private property;
- (b) Any animal which bites, inflicts injury, attacks, or otherwise endangers the safety of human beings or domestic animals, without provocation, on public or private property; or
- (c) Any animal owned, harbored, or trained primarily or in part for the purpose

of fighting.

Prohibited dangerous animal” as used in this ordinance means:

- (a) Any animal that, while off the owner’s or caretaker’s property, has killed a domesticated animal without provocation;
- (b) Any animal that, without provocation, inflicts bodily harm on a person on public or private property;
- (c) Any animal brought from another city, Town, town or county that has been declared dangerous or vicious or its equivalent by that jurisdiction;
- (d) Any dangerous animal that is not in compliance with any of the provisions of Section 10.119;
- (e) Any animal declared dangerous under this section that subsequently has a second or more reported unprovoked incidents in which the animal has bitten, inflicted injury, attacked, or otherwise unreasonably endangered with aggressive or threatening behavior, the safety of a human being or pet animal on public or private property;
- (f) Any dog that is subject to being destroyed under Section 174.02(3) of the Wisconsin Statutes; or
- (g) Any animal, owned, harbored or trained primarily or in part for the purpose of fighting.

Sec. 10.118. Procedure for declaring a dangerous animal.

- (a) The chief of police or the chief’s designee, upon conducting an investigation, may issue an order declaring an animal to be a dangerous animal whenever he/she finds that an animal meets the definition of a dangerous animal in Section 10.117. An owner or caretaker wishing to contest an order under this section shall proceed as provided in Section 10.121.
- (b) Upon an animal being declared dangerous, the owner or caretaker shall immediately comply with the signage, leashing, muzzling and confinement requirements of Section 10.119(c) and Section 10.119(e)-(g), with all other requirements in Section 10.119 being satisfied within thirty (30) days of the order.
- (c) Upon written request by the owner or caretaker, the chief of police or the chief’s designee may waive any requirement specified in Section 10.119 that he/she deems to be inappropriate for a particular dangerous animal.

Sec. 10.119. Restrictions.

The owner or caretaker of any animal determined by the chief of police or the chief's designee to be a dangerous animal shall comply with all of the following conditions:

- (a) **Registration.** The owner or caretaker of any dangerous animal shall register it with the Town clerk within 30 days of the order, and thereafter before January 1 of each year, by providing a current color photograph of the animal and payment of a \$75.00 registration fee. The initial registration fee shall be reduced to \$37.50 if the animal is required to be registered as a dangerous animal after July 1. Upon payment of the fee and satisfactory proof of compliance with the provisions and conditions of this ordinance, the owner shall be issued a dangerous animal certificate of registration. The owner or caretaker shall post the certificate of registration on the front door of the residence where the dangerous animal is being kept.
- (1) The owner or caretaker of any dangerous animal shall also provide proof of current license and rabies certificate as required under sections 10.109 at the time of registration and each year thereafter.
- (b) **Liability Insurance.** At the time of registration, the owner or caretaker of any dangerous animal shall provide proof of liability insurance in the amount of at least \$250,000 for any acts of property damage or liability incurred by virtue of personal injury inflicted by such animal. Such insurance shall name the Town as coinsured solely for the purpose of notice of cancellation of the policy.
- (c) **Display of Sign.** The owner or caretaker of any dangerous animal shall display signs on his or her premises facing out from all sides of the premises warning that there is a dangerous animal on the property. This sign shall be visible and capable of being read from a public highway or thoroughfare or within 20 feet of its placement. In addition, the sign shall include a pictorial symbol warning children of the presence of a dangerous animal.
- (d) **Identification.** The owner or caretaker of the dangerous animal shall provide written proof from a licensed veterinarian or humane society a device which can be later detected to aid in the proper identification of the animal. The device must be numbered and the number must be provided to the chief of police or the chief's designee.
- (e) **Collar.** A leather collar shall be worn by the animal at all times, except when being groomed.

(f) Duty to keep animal under restraint while on owner's or caretaker's property. While on the owner's or caretaker's property, a dangerous animal must be securely and humanely confined indoors or in a secure enclosed and locked pen or structure, suitable to prevent the entry of young children, and designed to prevent the animal from escaping.

(1) Indoor confinement. No dangerous animal may be kept on a porch, patio or in any part of a house or structure on the premises of the owner or caretaker that would allow the animal to exit the premises of its own volition. No dangerous animal may be kept in a house or structure when the windows are open or when screen windows or screen doors are the only obstacles preventing the animal from exiting the structure.

(2) Outdoor confinement. When constructed in a yard, the pen or kennel shall be child proof from the outside and animal proof from the inside. A strong metal double fence with adequate space between fences (at least two feet) shall be provided so that a child cannot reach into the animal enclosure. Such pen or structure must have secure sides and a secure top attached to all sides. The pen or structure shall be locked with a key or combination lock when the animal is within the structure. If it has no bottom secured sides, the sides must be imbedded into the ground no less than two feet. The enclosure must also provide protection from the elements for the animal. All structures erected to house dangerous animals shall comply with all Town building and zoning regulations and be adequately lighted and ventilated and kept in a clean and sanitary condition.

(g) Duty to keep animal under restraint while off owner's or caretaker's premises. No owner or caretaker may permit a dangerous animal to go outside its dwelling, kennel or pen unless the animal is muzzled and restrained by a leather collar with harness and leather lead not exceeding four feet in length and is under control of an adult, able-bodied person competent to govern the animal and physically capable of controlling and restraining the animal. The animal may not be leashed to inanimate objects such as trees, posts and buildings. The animal shall be muzzled in a humane way by a muzzling device sufficient to prevent the animal from biting persons or other animals.

(h) Spay and neuter requirement. The owner or caretaker shall provide written proof from a licensed veterinarian that the animal has been spayed or neutered.

Sec. 10.120. Procedure for declaring a prohibited dangerous animal.

(a) The chief of police or the chief's designee, upon conducting an investigation, may issue an order declaring an animal to be a prohibited dangerous animal whenever he/she finds that an animal meets the definition of prohibited dangerous animal in Section 10.117. An owner or caretaker wishing to contest an order under this section shall proceed as provided in Section 10.121.

(b) Upon issuance of an order declaring an animal to be a prohibited dangerous animal, the owner or caretaker shall remove the animal from the Town within five (5) days after the date of the order.

(c) No owner or caretaker of a prohibited dangerous animal may sell or transfer possession of the animal to any other person within the Town.

(d) Any animal declared to be a prohibited dangerous animal that is not removed from the Town within five days of it being declared a prohibited dangerous animal may be seized by the Town pursuant to Section 173.13(1), of the Wisconsin Statutes.

(e) The owner or caretaker shall provide the chief of police or the chief's designee within five days of the animal being declared a prohibited dangerous animal, the name, address, and telephone number of the person that will be in possession of the prohibited dangerous animal or a certification from a licensed veterinarian or local humane society that the prohibited dangerous animal was humanely euthanized. The owner or caretaker shall also present evidence to the police department showing that he or she has notified the police department or other law enforcement agency of the animal's new residence, including the name, address and telephone number of the new owner and advised that the animal is a prohibited dangerous animal.

Sec. 10.121. Appeal process for dangerous and prohibited dangerous animal.

(a) Whenever an owner or caretaker wishes to contest an order of the chief of police or the chief's designee to declare an animal dangerous under subsection (c) or prohibited dangerous under Section 10.120, he or she shall, within seventy-two (72) hours after receipt of the order, deliver to the Town clerk, a written objection to the order, addressed to the Public Safety Committee, stating specific reasons for contesting

the order. Upon receipt of the written objection, the matter shall be placed on the agenda for the Public Safety Committee to be reviewed at the next regular meeting. The Public Safety Committee shall act as a quasi-judicial body allowing the animal's owner or caretaker an opportunity to present evidence as to why the animal should not be declared dangerous or prohibited dangerous.

(b) After the hearing, the owner or caretaker shall be notified of the Public Safety Committee's determination.

(c) If the owner or caretaker wishes to further contest the determination, he or she may, within five (5) days of receiving the Public Safety Committee's decision, seek a review of the decision by the circuit court.

Sec. 10.122. Notification.

(a) The owner or caretaker of a dangerous animal shall notify the police department immediately if a dangerous animal is at large.

(b) The owner or caretaker of a dangerous animal shall notify the police department with twenty four (24) hours if the dangerous animal has bitten or inflicted injury upon another animal or human being, or has died.

(c) No owner or caretaker may sell or transfer possession of a dangerous animal to another person without first notifying the person to whom the dangerous animal is being sold or transferred of the fact that such animal is a dangerous animal. The owner or caretaker shall also provide the police department with the name, address and telephone number of the new owner of the dangerous animal. If the dangerous animal is sold or transferred to a person outside the Town, the owner or caretaker shall present evidence to the police department showing that he or she has notified the police department or other law enforcement agency of the animal's new residence, including the name, address and telephone number of the new owner and advised that the animal is a dangerous animal.

(d) The owner or caretaker shall update the Town clerk and the police department within five days upon moving the dangerous animal to another location.

Sec. 10.123. Impoundment.

(a) Pending any investigation as to whether an animal is a dangerous or prohibited dangerous animal or pending a hearing on an appeal under Section 10.205 of either determination, the animal must be securely confined in a humane manner either on the premises of the owner or caretaker or with a licensed veterinarian. The owner or caretaker of any animal impounded on the premises of the owner or caretaker must comply with the restrictions set forth in Section 10.119(c) and (e)-(g). The chief of police or the chief's designee may order impoundment of the animal pending his/her investigation and through any appeal hearing under Section 10.121, pursuant to Section 173.13(1) of the Wisconsin Statutes. If an animal is determined to be dangerous, it may remain impounded until the owner or caretaker has complied with all restrictions set forth in Section 10.119 or until such time as the chief of police or the chief's designee determines the animal may be safely returned to its owner or caretaker and upon payment of all costs and expenses under Section 10.123(b). If an animal is determined to be a prohibited dangerous animal, it may remain impounded until the owner or caretaker provides the police department adequate assurances that the animal will be removed from the Town as provided in Section 10.120(b) and upon payment of all cost and expenses under Section 10.123 (b). Any animal that has been impounded and remains unclaimed by its owner or caretaker for more than seven (7) days after written notice by certified mail has been sent to the owner or caretaker to his/her last known address advising that a determination has been made that the animal may be returned to the owner or caretaker upon compliance with the requirements of this subsection may be humanely euthanized pursuant to Section 173.23 of the Wisconsin Statutes.

(b) The owner or caretaker of the animal shall be liable to the Town for the costs and expenses of impounding an animal unless the chief of police or the chief's designee fails to declare the animal dangerous or prohibited dangerous or the determination is ultimately overturned by the Public Safety Committee or a reviewing court.

(c) The owner or caretaker of an animal confined on the premises under Section 10.123(a) shall immediately notify the police department if the animal is loose, unconfined, has attacked or bitten or injured another animal, or has attacked, bitten or injured a human being or has died. The animal shall not be sold or given away during the confinement or impoundment period.

(d) The chief of police or the chief's designee shall make a reasonable attempt to promptly notify the owner or caretaker in writing of any impoundment under this subsection if he or she can be identified and located with reasonable effort. Mailing written notice to the owner's or caretakers last known address shall satisfy this requirement.

Sec. 10.124. Destruction.

Any dog that has caused serious injury to a person or a domestic animal on two separate occasions off the owner's premises, without reasonable cause may be destroyed as a result of a judgment rendered by a court of competent jurisdiction as specified under Section 174.02(3) of the Wisconsin Statutes. The Town attorney may petition an appropriate court to obtain a court order to destroy such a dog.

Sec. 10.125. Duration of dangerous animal status.

(a) The chief of police or the chief's designee may remove the declaration of dangerous animal upon petition by the owner or caretaker of an animal upon a finding of all of the following:

- (1) The owner or caretaker demonstrates that changes in circumstances or measures taken by the owner or caretaker have mitigated the risk to public safety;
- (2) The owner or caretaker demonstrates there have been no additional reported instances of the behavior set forth in Section 10.117 within a 36 month period from the date of the order declaring the animal dangerous;
- (3) The owner or caretaker provides documentation from an accredited dog training specialist of attending and passing either an animal socialization program offered through the Association of Pet Dog Trainers or the American Kennel Club Canine Good Citizen Program; and
- (4) The chief of police or the chief's designee concludes from all of the evidence presented the animal no longer presents a risk to public safety.

Sec. 10.126. Penalties for violations.

(a) An owner or caretaker of a dangerous animal who fails to comply with the provisions of Section 10.119 is subject to a forfeiture of not less than \$100.00 nor more than \$250.00 per day.

(b) An owner or caretaker of a dangerous animal who violates subsections Section 10.116(a), (c), or (d) is subject to the forfeiture provided for in Sec. 1.109 of the Municipal Code.

(c) An owner or caretaker of a prohibited dangerous animal who violates Section 10.116(b) is subject to a forfeiture of not less than \$250.00 nor more than \$500.00 per day.

(d) An owner or caretaker of a dangerous or prohibited dangerous animal who violates any other provision of this section is subject to a forfeiture of not less than \$25.00 or more than \$250.00 per day.

Every day that a violation of this ordinance continues shall be deemed a separate offense. In addition to the foregoing penalties, any person who violates this ordinance shall pay all expenses including shelter, food, handling, veterinary care, and expert testimony fees necessitated by enforcement of this ordinance.

Sec. 10.127. Exemptions.

The provisions of this ordinance regarding dangerous animals shall not apply to animals owned by law enforcement agencies and used for law enforcement purposes.

Sec. 10.128. Severability.

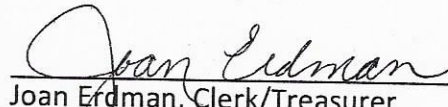
If any provision of this ordinance is adjudged invalid by any court of competent jurisdiction, such judgment shall not affect or impair the validity of the remainder of this ordinance.

Adopted: 8/20/2013
Approved: 8/20/2013
Published: 9/17/2013
Attest: 8/20/2013

Approved:


Milton Olson, Town Chairman

Attest:


Joan Erdman, Clerk/Treasurer

By the order of the Court, the following is ordered:

That the said order be and it is so ordered.

Witness my hand and the seal of the Court at the City of New York, this 1st day of January, 1901.

John F. Johnson, Clerk of the Court.

Attest: John F. Johnson, Clerk of the Court.

John F. Johnson, Clerk of the Court.

John F. Johnson, Clerk of the Court.